

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ERNEST MATTISON,

Plaintiff,

v.

**9:17-CV-1198
(TJM/ATB)**

V. JOHNSON, et al.,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

This *pro se* civil rights action brought pursuant to 42 U.S.C. § 1983, which alleges that Defendants were deliberately indifferent to the serious medical needs of Plaintiff, a New York State prisoner, was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation, dated November 15, 2019, recommends that the Court grant Defendants' motion for summary judgment. Magistrate Judge Baxter concludes that no reasonable juror could find that the Defendants acted with deliberate indifference to a variety of medical conditions that Plaintiff suffered while incarcerated. Magistrate Judge Baxter finds that none of the Defendants could be said to have acted with deliberate indifference, even if Plaintiff could argue that he suffered a serious medical

need. The evidence, Magistrate Baxter finds, does not support Plaintiff's claims to the contrary.

The Plaintiff filed objections to the Report-Recommendation. See dkt. # 105. When a party objects to a magistrate judge's Report-Recommendation, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record *de novo* and having considered the other issues raised in the Plaintiff's objections,¹ this Court has determined to accept and adopt the recommendation of Magistrate Judge Baxter for the reasons stated in the Report-Recommendation.

It is therefore **ORDERED** that:

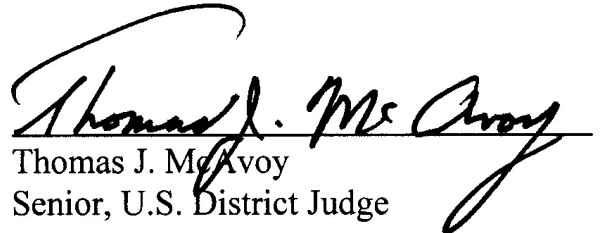
1. Plaintiff's objections, dkt. # 105, to the Report-Recommendation of Magistrate Judge Baxter are hereby **OVERRULED**;

¹Plaintiff filed a letter motion asking the Court to consider additional medical records he claims were not available to the Magistrate Judge. See dkt. # 106. The Court will grant that motion and consider the documents. The additional records, which well predate the events at issue here, establish that Plaintiff suffered from neuropathy, hand and feet pain, sleep disturbance, and cervical injury and pain years before the treatment here at issue. His doctors provided him pain medication. This information does not alter the Court's determination to accept and adopt the Report-Recommendation. Magistrate Judge Baxter acknowledged Plaintiff's complaints of pain and the medication he used to treat that pain in his Report-Recommendation. To the extent that old reports of pain would be useful to Defendant's claim that he suffered from a serious medical need with respect to back, foot, and hand pain, they would not address the medical care that the Defendants provided for the medical conditions that Plaintiff faced at the time here in question.

2. The Report-Recommendation, dkt. # 102, is hereby **ADOPTED**;
3. Defendants' motion for summary judgment, dkt. # 93, is hereby **GRANTED**;
4. Plaintiff's letter motion to consider attached medical records, dkt. # 106, is hereby **GRANTED**;
5. Plaintiff's Third Amended Complaint is hereby **DISMISSED IN ITS ENTIRETY**; and
6. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: March 11, 2020


Thomas J. McAvoy
Senior, U.S. District Judge